



The Civil Libertarian



Newsletter of the
ACLU of Nevada

Spring 2009

THE CIVIL LIBERTIES LOBBY THE ACLU'S ROLE AT THE NEVADA LEGISLATURE

by REBECCA GASCA

The ACLU of Nevada's legislative role is largely that of government watchdog. Our purpose is to ensure that when the government seeks to expand its power or reduce an individual's rights, it has a compelling reason for doing so and it complies with the Constitution.

The first question on every legislator's mind should be: what problem are we trying to address - and what is the least

invasive way of achieving that goal? This is especially true in Nevada where we have a long and proud tradition of skepticism towards the expansion of government power.

Sadly, bills that offer effective governmental oversight, introduce checks on power, or grant rights to Nevadans, are relatively rare. It is therefore critical that we remain vigilant

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METRO: IMMIGRATION POLICE? LAS VEGAS POLICE ENTER INTO 287(G) AGREEMENT

by JUDY COX

In November 2008, the Las Vegas Metropolitan Police Department (Metro) began a program with Immigration and Customs Enforcement (ICE) in which ten Metro Police Officers received training and authority to enforce federal immigration laws.

This program, the first of its kind in Nevada, is commonly referred to as 287(g), after the section of the Immigration and Nationality Act that allows the Department of Homeland Security and ICE to "deputize" local police as pseudo-immigration agents. After receiving training, local police can enforce immigration laws and begin proceedings against undocumented aliens who will eventually be turned over to ICE. Metro's program is "Jail Enforcement Only," meaning that only after a person has been arrested and booked into the local jail can officers question that person about his

or her immigration status and begin immigration proceedings if they believe he or she is undocumented.

The ACLU of Nevada opposes Metro's participation in the 287(g) program, primarily because of the adverse impact it has on the local community and the potential for racial profiling and pretextual arrests.

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**IMPORTANT
ACLU OF NEVADA
BOARD OF DIRECTORS
ELECTION
INFORMATION**

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We Miss you!*

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PUBLISHING INFORMATION

The *Civil Libertarian* is
published twice yearly by:

ACLU of Nevada
Foundation, Inc.
1325 Airmotive Way,
Suite 202
Reno, NV 89502

Edited and designed by:

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A SINGLE WOMAN

MOVIE TELLS STORY OF FIRST U.S. CONGRESSWOMAN

by PHIL HOOPER

Jeanette Rankin was a woman ahead of her time. She was the first woman elected to the United States Congress in 1916, four years before the ratification of the Nineteenth Amendment gave women the right to vote. A passionate and outspoken activist for peace and social justice, Rankin opposed entry into both World Wars, advocated for the rights of women and children, and, during the anti-communist raids of the 1920's, helped found the national American Civil Liberties Union.

To honor her story, often overlooked in the narrative of American history, the ACLU of Nevada partnered with other state organizations this spring to promote three screenings of "A Single Woman," a new film that chronicles Rankin's life. Those screenings were an opportunity for ACLU supporters and other community members to come together and reflect on the achievements of a remarkable individual.

The Las Vegas office worked with the Women's Research Institute of Nevada at the University of Nevada, Las Vegas to promote a February 19th viewing that featured a post-movie discussion with the film's director, Kamala Lopez, and ACLU of Nevada Staff Attorney Maggie McLetchie.

The Reno office organized two screenings of the movie. They collaborated with the Nevada Women's Lobby and the University of Nevada, Reno ACLU Club to organize a viewing for state legislators and participants in Grassroots Lobby Days in Carson City on March 9th. The other Northern Nevada screening targeted students and community members at the UNR campus on March 30th. The ACLU partnered with the UNR ACLU student club, the Women Without Borders Club,



JEANMARIE SIMPSON as Jeanette Rankin at the Ratification of the 19th Amendment (1920)
HERBICA FILMS
A SINGLE WOMAN
Photo by Sarah Gochrach

and the UNR Women's Studies Program. A panel discussion, moderated by Dr. Jennifer Ring, followed the screening and included Assemblywoman Peggy Pierce; Rebecca Gasca, ACLU of Nevada Public Advocate; Cameron Crain, an actor in the film; and Dr. Mary White Stewart, Director of the Women's Studies Program.

"The ACLU of Nevada is nonpartisan, and tied only to principle," said Maggie. "This is also how Jeanette Rankin operated. She was never afraid to disagree with anyone. Just like the ACLU, she had neither permanent enemies nor permanent friends. All she had was her principles, and she stuck to them."

The themes of "A Single Woman" – the courage to stand up for one's principles, the need for a more just and peaceful society, and the importance of women in political and civic life – were especially timely topics for Women's History Month, celebrated in March.

"A Single Woman" House Parties & Screenings

The ACLU of Nevada has screening rights for "A Single Woman." If you would like to arrange a screening or would like to organize a house party around a screening, please contact us for more information at:

info@aclunv.org

A FORCE TO BE RECKONED WITH

A NOTE FROM THE EXECUTIVE DIRECTOR

Since our last newsletter arrived on your doorstep, the ACLU of Nevada has continued to be a civil liberties force to be reckoned with. Our accomplishments during this period have been nothing short of remarkable, including lobbying, litigation, and advocacy that has made an enormous difference in the Silver State.

On the litigation front, we have settled a case involving a young Egyptian-American woman who was driven from her Washoe County high school by constant harassment that school officials ignored. That settlement included an agreement to change school district policies to help ensure no one is subjected to this type of mistreatment again.

Similarly, we settled a case involving an orthodox Jewish Las Vegas Metropolitan Department officer who was seeking a religious accommodation allowing him to wear a head covering and have a trim beard on the job. This settlement also involved changes in policy, which are designed to guarantee that other officers can obtain reasonable religious accommodations from Metro when they are requested. (For more litigation news, see "Legal Victory Roundup" on pages 6 and 7.)

On the legislative front, we have been more effective than ever during the current session in Carson City. Due to the efforts of an incredible legislative team, we have helped move forward positive bills

in the elections, LGBT rights, child welfare, and criminal justice arenas, among many others. We have also played a key role in stopping the passage of bills that were clearly unconstitutional or just bad policy, either by helping to kill those bills outright or by successfully advocating for amendments that eliminated their worst flaws.

Among our proudest legislative achievements this session, if it is possible to choose among many that are a source of pride, is our work on LGBT-friendly bills that are wending their way through the statehouse. These include a public accommodations bill that would protect people from discrimination based on sexual orientation and a domestic partnership bill that would create a registry affording partners recognition and important rights and responsibilities that comes with such recognition. (For more news from the legislature, see "Civil Liberties Lobby" on page 1.)

Because of this and an array of other work defending the rights of all people in Nevada, we remain the state's leading civil liberties and civil rights organization. But these are very challenging times, when the vigilance required to do our job demands a fully staffed and well-resourced organization.

Despite our many committed donors, fundraising has been difficult when money is most needed to maintain a staff that has grown to nine, the two offices where they

work, and the infrastructure needed to support what they do.

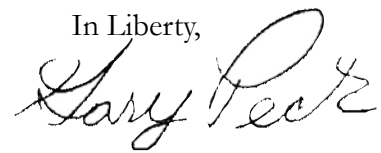
I am therefore urging all of our members to go to our website at www.aclunv.org to make a tax-deductible contribution to the ACLU of Nevada Foundation, or you can mail your donation to us in the envelope enclosed in this newsletter.

I also encourage you to contact our offices to explore with staff the possibility of becoming involved in our work. The combination of donations and volunteerism will make a major difference in the fight for rights that so dearly matters to all of you and to the dedicated staff and board who work so tirelessly on causes that seem daunting but are always winnable.

With the generous support and involvement of our membership, I am confident we can build on the solid foundation upon which the ACLU of Nevada now rests. The ACLU's board and staff are eternally grateful for such support, and so are all the other Nevadans who care about the freedoms that make our constitutional democracy a beacon of hope for people everywhere.

After thirteen years as your executive director, it would be difficult for me to thank all of you enough for your dedicated support of the ACLU.

In Liberty,



Gary Peck
Executive Director

ONE PERSON, ONE VOTE

ACLU OF NEVADA PARTNERS IN ELECTION PROTECTION COALITION

by REBECCA GASCA

This past election season was a truly historic one - extraordinary voter turnout throughout the state coupled with intense national scrutiny on Nevada made it an election for the record books.

Although the ACLU is strictly non-partisan, we believe that no civil right is more important than the right to vote. Making sure that every individual who is eligible to vote has a meaningful opportunity to do so is no easy task - it demands foresight, planning, and a willingness to take action when something goes wrong. The ACLU of Nevada dedicated substantial time and effort this election season to ensuring every Nevadan retained this fundamental right.

Starting in August 2008, the ACLU of Nevada took the lead in coordinating an amazing group of organizations and individuals to support a fully-operational Nevada Election Protection effort. Election Protection is the nation's largest non-partisan voter protection coalition that works throughout the year to break down barriers to the ballot box for traditionally disenfranchised voters. Our election efforts took shape throughout the fall, culminating in two fully-staffed Election Protection headquarters in the ACLU's Reno office and in the Las Vegas law offices of Lisa Rasmussen, an ACLU of Nevada Board member, and Robert Langford & Associates.

We advertised and coordinated literally hundreds of volunteer opportunities. Volunteer attorneys, paralegals and law students served as Mobile Legal Volunteers ("MLVs"), who were then paired up with non-legal volunteers. These teams were

trained, armed with identifying vests and election facts and literature, and then sent out on November 7th to monitor specific polling places.



In teams of two or more, our roving MLVs monitored a zone of four to ten polling places, responded to incidents reported through the national voter hotline (1-866-OUR-VOTE), and assisted voters at the polling places. The volunteers also watched for potential issues including the abuse of photo ID requirements, dissemination of misinformation by poll workers, problems associated with electronic voting machines, and potential intimidation of voters. With direct lines of communication to the Secretary of State's office and the Registrars of Voters around the state, our Election Protection team was able to immediately address incidents as they arose at the polls.

Our election protection work targeted communities traditionally disenfranchised, including African Americans, Asian Pacific Americans, Latinos, Native Americans and other racially and ethnically diverse

communities, seniors, young people, low-income voters and individuals with disabilities. On Election Day, our volunteers in Washoe and Clark counties passed out thousands of the ACLU Voter Empowerment Cards, a reference guide designed to help voters protect their own right to vote by answering the most frequently asked questions about Nevada's voting laws.

The ACLU of Nevada worked hard to protect the integrity of Nevada's 2008 elections, and to ensure every registered voter's voice was heard. Our efforts helped to quickly resolve potential issues at the polls, undoubtedly contributing to one of the most successful elections Nevada's history.

Thank You!

Our Election Protection efforts would not have been possible without the help of hundreds of volunteers who dedicated their time to physically monitor the polls and who coordinated the efforts of the roving Mobile Legal Volunteer teams.

The ACLU of Nevada would like to extend a special thank you to our Election Protection Partners:

- Advancement Project
- AFL-CIO Lawyers Coordinating Committee
- Bingham McCutchen LLP
- Democracia USA
- Law Offices of Lisa Rasmussen and Robert Langford & Associates
- Lawyers Committee for Civil Rights
- Mexican American Legal Defense and Educational Fund (MALDEF)
- National Association of Latino Elected and Appointed Officials (NALEO)
- Progressive Leadership Alliance of Nevada (PLAN)

...287(g) continued from page 1

Enforcement Fails to Selectively Target “Dangerous Criminal Immigrants”

Metro Sheriff Douglas Gillespie has repeatedly stated that the purpose of the program is to remove dangerous criminal immigrants from the city.

“The bottom line is that we have some very serious crime issues to deal with in Las Vegas - gang violence, human trafficking, narcotics smuggling and money laundering - to name a few,” said Gillespie in an October 2008 press release from ICE announcing the 287(g) program. “Our partnership with ICE is one of many methods we are going to use to decrease these unacceptable activities. As a law enforcement agency, we must do everything we can to protect our citizens from habitual criminals.”

However, despite Metro’s assurances that the program is only aimed at dangerous criminals, Sheriff Gillespie has stated that all inmates suspected of being undocumented will be referred to ICE, regardless of the reason for the arrest, and regardless of whether the state chooses to prosecute that individual. This means that an immigrant arrested for a crime as harmless as jaywalking could end up in deportation proceedings.

Enforcement Will Not Make the Community Safer

Immigrants’ trust in local law enforcement is destroyed when police act as immigration agents.

Due to the overlapping roles between Metro and ICE in the 287(g) program, the immigrant community may hesitate to reach out for help or report crimes out of fear that their immigration status will be questioned. Family members may be reluctant to report domestic abuse out of fear that the abusive relative will be deported. To give another

example, an assault victim who successfully defends himself may not call police out of fear that he will also be arrested.

Without assurances that they will not be subject to an immigration investigation, detention, and possible deportation, many immigrants will not come forward with vital information about crimes and will avoid police assistance. Each and every person in Las Vegas, regardless of immigration status, should feel confident that Metro is there to protect them, not deport them.

Enforcement May Lead to Mistakes and Racial Profiling

One of the biggest fears is that racial and ethnic profiling will funnel Latinos into the Clark County Jail so they can be questioned by “trained” Metro officers.

This will lead to foreign-looking or foreign-sounding United States citizens being detained - or even wrongly deported - until they prove their citizenship, despite the fact that the burden is on ICE to prove that a person is deportable. Such incidents have occurred throughout the U.S. and it is only a matter of time before they happen in Las Vegas.

- Under a 287(g) program, the Los Angeles County Sheriff’s Department deported a mentally disabled U.S. citizen named Pedro Guzman. Guzman had no identification when he was arrested and could not provide information about his status to law enforcement. His mother eventually found him, four months later, in Tijuana, Mexico.
- U.S. citizen Guillermo Olivares Romero was held in a California immigration detention center for two weeks before his lawyers convinced ICE that he was not deportable.

Every Person should feel Confident that the Police are there to Protect them, not Deport them.

- U.S. citizen José Ledesma was held for two months in a California immigration detention center even though he had provided copies of his birth certificate and baptismal certificate to authorities.
- A U.S. citizen who was deported to Guatemala had to call his family to fax a copy of his U.S. birth certificate. The U.S. Consulate Office in Guatemala then issued him a passport and gave him money for return airfare. Upon his arrival back in the U.S., he was re-arrested and charged with illegal entry after deportation because his photograph and fingerprints had already been entered in the national database as a deported alien.
- Although the investigation is still ongoing, it appears that an immigrant, who was being detained at North Las Vegas Detention Center for possible deportation, was beaten to death by another inmate who was also being detained for immigration purposes.

In light of these concerns, the ACLU of Nevada has urged Metro to reevaluate its participation in the 287(g) program. Further, the ACLU is committed to working with Metro and the community to monitor the operation and effects of 287(g).

If you have information about the effects of Metro’s 287(g) agreement with ICE, please email the ACLU of Nevada at: info@aclunv.org

LEGAL VICTORY ROUNDUP

NOVEMBER 2008 TO MARCH 2009

by MAGGIE McLETCHE

Although our attorneys are lending their talents to our full-force efforts at the legislature, our litigation work and our legal victories continue on a variety of issues.

Free Speech

Final Victory in the Fight for Fremont Street

In 1997, the City of Las Vegas tried to eviscerate free speech rights at the Fremont Street pedestrian mall by claiming the First Amendment did not apply because the walkway had a corporate owner, the Fremont Street Experience, LLC. The ACLU of Nevada challenged the ordinances in what has become an epic First Amendment battle.

After the Ninth Circuit Court of Appeals ruled in our favor—not once but twice – the City of Las Vegas passed new ordinances that were strikingly similar to the ordinances the Court struck down. The new ordinances still criminalized protected speech by prohibiting all requests for “immediate” donations and outlawing all tabling and advertising not approved by the corporate owner of the Fremont Street pedestrian mall.

The ACLU of Nevada again challenged the new set of ordinances and they were again ruled unconstitutional. The battle appears to be over for now. The City decided not to appeal the most recent decision, but it has indicated it may again rewrite the ordinances.

Of course the ACLU will continue to make sure that the City and the Fremont Street Experience, LLC comply with the Court’s order and respect the free speech rights of all individuals on Fremont Street.

Public Records

Ensuring Nevada’s Sunshine Laws Continue to Shine

Karen Gray, education activist and ACLU of Nevada client, requested access under public records laws to email communication between Trustees of the Clark County School District (CCSD). CCSD, however, held the documents hostage by claiming Karen needed to pay over \$4,000 to see them.

Nevada’s “sunshine” public records laws are designed to ensure that citizens can access and review public documents – precisely so that people like Karen can serve as government watchdogs. It is the ACLU of Nevada’s view that government agencies should not be able to charge money to a member of the public to inspect documents kept and created with public money.

The Nevada ACLU challenged the effective denial of public documents and won an order upholding the spirit of Nevada’s sunshine laws. While the judge took the view that fees may be charged if extraordinary resources are required to comply with a request, she held that no money should be charged to Karen given the facts of the case. The judge also held that under *any* facts, no costs could be charged for the review of documents for confidential material. In addition, CCSD must provide a justification for the withholding of any documents.

Students’ Rights

Racial and Religious Discrimination at School

Jana Elhifny, a young Egyptian-American woman and practicing Muslim, was discriminated against and harassed by other students at her high school in Washoe County because of her religion, race, and national origin. Jana reported this harassment to teachers and administrators but the claims were not properly investigated or resolved. The discrimination continued, eventually forcing Jana to leave school.

Jana’s friend Stephanie Hart was discriminated against for befriending Jana and attempting to advocate on her behalf with school administrators.

The ACLU of Nevada and attorneys from O’Melveny & Myers filed separate discrimination cases on Jana’s and Stephanie’s behalf. The cases were recently settled and will include a \$350,000 payment to Jana and \$50,000 to Stephanie, in addition to an agreement to develop and enact best-in-class discrimination and harassment policies for the Washoe County School District.

At the end of the day, the total cost for CCSD to comply with the public records request was \$135, a far cry from the \$4,000 bill Karen received. This perfectly illustrates why the burden of complying with public records requests should lie with the government – otherwise, government agencies will make it as difficult as possible for the public to get access to public records.

While we are still fighting over some withheld documents, Karen now has documents in hand that she believes will help her advocate for school reform at the legislature.

Winning the Tools to Fight for Reform in Nevada’s Prisons

In *Riker v. Gibbons* the ACLU of Nevada is seeking to improve the horrendous medical conditions at Ely State Prison, the institution that houses Nevada’s death row inmates and other maximum security prisoners. Conditions are so terrible at Ely that one diabetic inmate rotted to death from gangrene because he was deprived of insulin. On March 31, 2009, the ACLU won a class certification motion, meaning that we represent each and every current inmate at Ely, and we can seek wide-sweeping reform. We hope that a successful outcome of this lawsuit will lead to systemic improvements in medical care at all correctional facilities in Nevada. The ACLU of Nevada is co-counseling this case with the ACLU’s National Prison Project and a private firm, Holland & Knight.

Fighting for Juveniles in the Criminal Justice System

On November 26, 2008 the Nevada Supreme Court issued a sweeping and important decision that struck down a law requiring juvenile defendants to admit guilt in order to win the right to be heard in juvenile court.

The case involves a challenge to Nevada’s “presumptive certification” statute, which required that all children charged with a crime go to adult court by *default* whenever certain conditions were met – such as the use of a handgun. However, children were allowed to “rebut” the presumption of certification, and return to juvenile court, but only if they acknowledged guilt and showed evidence that the crime was motivated by child abuse or substance use. While the legislature’s goal of protecting kids hurt by drugs, alcohol, or abuse from

the adult system is laudable, the problem was that the right to access juvenile court was conditioned on a child’s admission of guilt. If a juvenile maintained innocence, they could not show that past actions contributed to the crime and thus, must be tried as an adult. This is precisely what the Fifth Amendment to the U.S. Constitution prohibits.

The Nevada Supreme Court honored the ACLU of Nevada with a request that we help educate them on the constitutional issues at stake by participating as *amicus curiae*, or “friend of the court,” along with the Juvenile Law Center and the National Juvenile Defender Center. Las Vegas Attorney Kristina Wildeveld represented the juveniles directly.

Earning Fees for Overturning Retroactive Criminal Laws

One of the mantras often heard at the ACLU of Nevada is that “litigation is a matter of last resort.” We spend countless hours working with government officials to persuade them to follow to the Constitution they are sworn to protect and defend (see “*The Civil Liberties Lobby*” on page 1), but with a team of four lawyers, we are also at the ready to litigate when necessary. When we win, the losing side pays our attorney’s fees, which in turn helps fund our legal and advocacy work.

Most recently, in *ACLU v. Mastro*, the ACLU of Nevada won \$145,955.60 for stopping unconstitutional, retroactive laws from taking effect. The laws would have subjected sex offenders who committed even misdemeanors as long ago as 1956 to onerous registration and community notification laws. The defendants

appealed the case to the Ninth Circuit, but the District Court made clear that we are entitled to the fees, regardless of what happens on appeal.

It is notable that the Nevada ACLU repeatedly tried – and continues to try – to negotiate with the Attorney General’s office and has testified at the Nevada legislature to advocate for changes to the sex offender laws in light of the court’s order. Unfortunately, our many attempts have been unsuccessful, requiring continuing protracted and expensive litigation. While the ACLU of Nevada is glad to be compensated for the necessary work we do to defend the Constitution, it is, in our view, unfortunate that litigation was made necessary in the first place, especially at a time when Nevada’s budget situation is dire.

Protecting Individual Religious Expression

Steve Riback is an Orthodox Jewish police officer with the Las Vegas Metropolitan Police Department. In observance of his faith, Steve requested the right to wear a head covering and trim beard at his non-uniformed desk job. Metro denied Steve’s request despite the fact that other uniformed officers were allowed to wear beards for medical reasons and express their Christian faith.

The court granted Steve the right to wear a beard in summary judgment, and shortly thereafter the parties settled the remaining issues. As part of the settlement, Steve was awarded \$50,000 and the right to wear a head covering. A substantial sum was also won in attorney’s fees, which will be distributed between the ACLU and private co-counsel.

... Nevada Legislature,
continued from page 1

and continue to ask our government why it needs each new power it seeks. Because the Nevada legislative session is scheduled to last only 120 days, deadlines are tight. Unless a bill has been granted a schedule exemption, all bills must pass out of their originating house by April 21 and must pass out of the second house by May 22.

Although bills might not be successfully voted out of their original house, there is always the possibility that issues from bills that have died can be amended into other bills, even at the last minute. Additionally, new amendments can always be offered that might fundamentally change the tenor of a bill. As such, diligently

watching each Senate and Assembly floor session for amendments and directly communicating with individual legislators are important methods of staying on guard.

The ACLU of Nevada has poured considerable staff time into our legislative advocacy this session, as lobbying offers the unique opportunity to address problems before they become state law and rise to the level that may warrant litigation.

We consider our lobbying activities to be an important testament to our mantra that litigation is really an option of resort.

This 2009 session, the ACLU of Nevada has actively tracked almost 200 bills, testified on over 80, and approximately 15 of our amendments have been incorporated into various bills.

Supporting

- **AB 179: INNOCENCE**
Allows certain people convicted of felonies to petition the court for post-conviction DNA analysis.
- **AB 190: DEATH PENALTY**
Requires an audit to study the cost of the death penalty in Nevada.
- **SB 125: PRIVACY**
Prohibits theft of Radio Frequency Identification (RFID) information, an item-tagging technology that threatens privacy.
- **SB 207: EQUALITY**
Expands non-discrimination protections in places of public accommodation to include sexual orientation.
- **SB 283: EQUALITY**
Establishes a domestic partnership registry for same- and opposite-sex couples.

Watching

- **AB 46: SECOND AMENDMENT**
The ACLU of Nevada worked to amend this bill to include due process protections for individuals who may lose their right to own a gun.
- **AB 504: PRIVACY**
The original bill authorized use of automated systems (red-light cameras) to enforce traffic laws, but it has been amended into an auto insurance bill.
- **SB 163: FREE SPEECH**
Prohibits “cyber-bullying” as part of the safe and respectful learning environments in public schools. The ACLU’s First Amendment concerns currently appear to be addressed.

Want More Information?

You can follow bills and watch committee meetings online at leg.state.nv.us

Testimony from the ACLU of Nevada is available online at www.aclunv.org

Opposing

- **AB 335: CRIMINAL JUSTICE**
Ratchets up misdemeanor crimes to felonies if the crime is committed to “promote the activities” of a criminal gang.
- **SB 35: DUE PROCESS**
Allows a person to be prosecuted for a crime in Nevada after being acquitted or convicted of that crime in another country or state.
- **SB 52: PRIVACY**
Facilitates implementation of the federal Real ID Act in Nevada.
- **SB 82: PRIVACY**
Nicknamed the “Nevada Patriot Act,” this bill would permit the government to conduct secret searches on electronic communications without getting a warrant from a judge.
- **SB 262: DRUG POLICY**
Increases penalties for any cultivation of marijuana plants, including medical patients who grow too many plants.

HENDERSON GETS “FOOTLOOSE”

THE CITY OF HENDERSON LIFTS BAN ON TEEN DANCE HALLS

by GOSHA TOMASIK, VOLUNTEER

On April 1, 2008 the Henderson City Council voted to ban teen dance halls and nightclubs. The reason, the City said, was to curb “negative effects” caused by the dance halls such as underage drug and alcohol use, violence, and various antisocial activities.

Council members reasoned that the ban was necessary given growing number of alleged disturbances around Frozen 75, the only teenage nightclub located in Henderson when the ban was passed.

The ordinance, however, did much more. It would have made it virtually impossible for teenagers to gather anywhere and do things like dance, put on plays, or listen to music.

The ACLU of Nevada sent a letter to the City Council and, along with members of the public, testified against the ordinance.

The ACLU was concerned because the ordinance was written so broadly that it would have made it illegal for any group of people 18 or younger to gather and listen to music or any form of live entertainment, in violation of First Amendment rights of expression, assembly and association.

Maggie McLetchie, Staff Attorney for the ACLU of Nevada, explained that “teenagers have First Amendment rights and this ordinance would unquestionably violate them.”

Moreover, while the ordinance prohibited privately run dance halls, an exception was carved out for events sponsored by the government and religious organizations. This kind of “content-based” restriction is

prohibited by the First Amendment.

The ordinance also applied to eighteen year olds, who are in most cases considered legal adults. Pointing out the absurdity of such a ban, Maggie noted that “eighteen year olds can vote and die for our country in the military, but they can’t dance?”

*Eighteen year
olds can Vote
and Die for
our Country,
but they can't
Dance?*

Members of the public complained that the ban on dance halls violated parents’ rights to decide how to raise their children.

The Council expressed concern about a shooting at a similar club in Texas. Maggie countered that if we banned all places where a shooting occurred, all schools and post offices would have to be closed.

For all of the public outcry, legal arguments, and questions of unconstitutionality of the ordinance, it was ultimately the Open Meeting Law that helped prevent it from taking effect.

Karen Gray, a Henderson resident and ACLU volunteer, attended the Council meeting and noticed that the language in the bill actually passed by the Council differed from the one distributed and discussed at the meeting.

Karen filed an Open Meeting

Law complaint with the Attorney General’s office, arguing that the Council violated the law by not giving the public the opportunity to discuss concerns about the revised ordinance.

The Attorney General agreed with Karen and as a result the City of Henderson agreed not to enforce the ordinance. Karen said, “It wasn’t fair to the residents that the ordinance was on the books when the City knew the law wasn’t enforceable.”

The ACLU of Nevada used the opportunity to again voice constitutional concerns about a ban on dance halls.

On January 20, 2009, eight months after the dance hall ban was passed, the Council passed a new ordinance regulating teen dance halls instead of banning them altogether. The new ordinance regulates the locations and hours of operation of teen dancing clubs and also requires background checks before new clubs are created.

Whenever possible, the ACLU of Nevada testifies in front of government bodies and attempts to convince them not to pass unconstitutional laws. In this instance, the ACLU is pleased that the Henderson City Council decided to pursue regulation of teenage dance halls instead of an outright ban.

Teenagers in the Las Vegas Valley already have few options for legal entertainment. Passing a law that not only further restricted those options but also violated teens’ First Amendment rights of expression, association and assembly would have only made things worse.

Who Can Vote:

The by-laws of the ACLU of Nevada call for a Board of Directors that is elected by our general membership. Only current ACLU members may vote. It is your non-tax-deductible membership dues payable to the ACLU, not donations to the ACLU of Nevada Foundation, that make you eligible to vote.

The address label affixed to this issue of *The Civil Libertarian* indicates on the top line if you are a current member of the ACLU and eligible to vote. One of three options indicating your voting status will appear on your mailing label:

- **“VOTE”**: You are eligible to vote.
- **“JOINT VOTE”**: You share a joint membership with another member in your household. You both may vote by using the two columns on the ballot.
- **Only your address**: You may either be a donor to the ACLU of Nevada Foundation and not a member of the ACLU, or your ACLU membership may not be current. If you have recently renewed your membership, please send in your ballot with a note indicating your recent renewal so we can verify that your membership is current. If you would like to become a member or renew your membership at this time so you are eligible to vote, you may submit a check for your membership with your ballot.

Nomination of Candidates:

Our by-laws specify two methods for nominating candidates for directorships. Candidates may be nominated by the current Board of Directors after the Board considers recommendations from its Nominating Committee. Candidates may also be nominated by petition bearing the signatures of at least ten current members of the ACLU of Nevada.

Voting Instructions:

To help you assess this year’s candidates, we’ve included brief statements submitted by the candidates (see page 11). The candidates are listed in alphabetical order. We have four candidates running for four seats on our Board. You may vote for up to four candidates. You cannot cast more than one vote for any candidate even if you vote for fewer than four candidates.

If you share a joint membership with another member—indicated by “JOINT VOTE” on your mailing label—you may each vote for up to four candidates by using both of the columns provided on the ballot.

Mailing Instructions:

After marking your ballot:

1. Clip page eleven from the newsletter, keeping your mailing label attached for voter verification;
2. With page eleven facing you, fold sheet from top to bottom along the natural fold of the newsletter;
3. Fold in half again so that your old mailing label is hidden and the mailing address for the Elections Committee is displayed:
**Elections Committee
1325 Airmotive Way, Ste. 202
Reno, Nevada 89502**
4. Tape or staple the “envelope” where indicated;
5. Sign the back of the “envelope”;
6. Stamp and mail.

Confidentiality

If you would like to ensure the confidentiality of your ballot, remove your mailing label before folding and securing your ballot. Put your ballot **and** mailing label into an envelope and mail to our Elections Committee at the address indicated above. We will separate your mailing label before we count your ballot.

Deadline:

In order for your ballot to be counted, we must receive it by **June 30, 2009**.



MARC FURMAN, Las Vegas

I was always an advocate for the ACLU but it was not until John Ashcroft became Attorney General that I became a Board Member. I am the Senior Administrative Officer for the Carpenters Union in Nevada and see the connection between loss of civil liberties and loss of income. I am most interested in immigration issues as I see worker abuse in construction daily. I hope that my presence on the Board brings a more day to day view of what workers face in our society.



MICHAEL HAVERCAMP, Reno

As a Board member of the ACLU of Nevada, I will continue to advocate for the precious rights of free speech and civil liberties for all Nevadans, especially those historically disenfranchised from participation in the political system. As a mediator, community organizer, and a recently retired faculty member at the University of Nevada, Reno, I have been involved with human rights, community, environmental and ethnic disputes in Nevada and internationally for forty years.



TONI SANDLER, Reno

As a “Born a Union Baby” from the Bay Area, I consider my participation on the ACLU of Nevada Board an honor and privilege. I believe our mission – to protect our civil rights – is absolutely vital to our country’s (and the world’s) existence. As a non-profit consultant and coordinator for the Nevada State Bar’s Continuing Legal Education programs, I believe I bring strong organizational development skills which benefit the ACLU’s Board and staff.



RICHARD SIEGEL, Reno

I have served on the Board of the ACLU of Nevada at the state and national levels for many years. It has been a great pleasure to participate in its growth into one of the country’s most effective affiliates. There remains much to accomplish in terms of shaping the legislative and litigative priorities of the organization, increasing our members’ involvement, and adapting to the larger size of the staff and a more active state board.

Instructions for Voting

1. Check voting status. Eligible voters will have either “VOTE” or “JOINT VOTE” on their mailing label.
2. Mark ballot. You may vote for up to four candidates. If you have “JOINT VOTE” on your mailing label, you may also use the “JOINT VOTE” column.
3. Clip this page from the newsletter. Keep mailing label attached for verification.
4. With this page facing you, fold from top to bottom along the natural fold of the newsletter.
5. Fold in half again so that your old mailing label is hidden and the mailing address for the Elections Committee is displayed.
6. Secure the “envelope” where indicated.
7. Sign the back of the “envelope.”
8. Stamp and mail.

VOTE	CANDIDATE	JOINT VOTE
YES <input type="checkbox"/> NO <input type="checkbox"/>	Marc Furman	YES <input type="checkbox"/> NO <input type="checkbox"/>
YES <input type="checkbox"/> NO <input type="checkbox"/>	Michael Havercamp	YES <input type="checkbox"/> NO <input type="checkbox"/>
YES <input type="checkbox"/> NO <input type="checkbox"/>	Toni Sandler	YES <input type="checkbox"/> NO <input type="checkbox"/>
YES <input type="checkbox"/> NO <input type="checkbox"/>	Richard Siegel	YES <input type="checkbox"/> NO <input type="checkbox"/>

**RETURN
SERVICE
REQUESTED**

1325 AIRMOTIVE WAY, SUITE 202
RENO, NEVADA 89509



SECURE HERE

DATE

JOINT MEMBER SIGNATURE
(IF APPLICABLE)

DATE

MEMBER SIGNATURE

PLACE
STAMP
HERE

ACLU ELECTIONS COMMITTEE
1325 AIRMOTIVE WAY, SUITE 202
RENO, NEVADA 89502



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